

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF BIG RIVERS)	
ELECTRIC CORPORATION FOR A)	
CERTIFICATE OF PUBLIC CONVENIENCE)	
AND NECESSITY AUTHORIZING THE)	CASE NO.
CONVERSION OF THE GREEN STATION)	2021-00079
UNITS TO NATURAL GAS-FIRED UNITS AND)	
AN ORDER APPROVING THE)	
ESTABLISHMENT OF A REGULATORY ASSET)	

ORDER

On March 26, 2021, Big Rivers Electric Corporation (BREC) filed a motion, pursuant to 807 KAR 5:001, Section 13, KRS 61.878, and KRS 278.160(3), requesting that the Commission grant confidential treatment for designated material in BREC's response to Commission Staff's First Request for Information (Staff's First Request), Items 4, 6, 15, and 18, and for BREC's response to the Attorney General of the Commonwealth of Kentucky, by and through the Office of Rate Intervention's (Attorney General) First Request for Information, Item 10. BREC requested confidential treatment for an indefinite period for its response to Staff's First Request, Items 4, 6, 15, and 18, which consist of the terms of special contracts, bid information, and generation system maps and design drawings for an indefinite period. BREC further requested confidential treatment for two years the designated material in its response to Item 10 of the Attorney General's Initial Data Requests, which consist of information related to planned outages.

In support of its motion, BREC asserted that public disclosure of the generation system maps and design drawings is prohibited by KRS 61.878(1)(m) because public

disclosure would have a reasonable likelihood of threatening public safety by providing the public with information to analyze vulnerabilities in BREC's system. BREC further asserted that the terms of the special contracts are exempt from public disclosure in accordance with KRS 278.160(3), which prohibits public disclosure of special contract terms containing rates and conditions of service that are not filed in a utility's general schedule and would otherwise be entitled to confidential treatment under KRS 61.878(1)(c)(1). BREC explained that the special contracts relate to power sales contracts previously granted confidential treatment by the Commission¹ or that are pending,² and are not filed in BREC's general schedule. Finally, BREC asserted that public disclosure of the planned outages would result in commercial injury to BREC by hindering BREC's ability to negotiate the maximum price of power sold and to keep the cost of production as low as possible.

Having considered the motion and the material at issue, the Commission finds that the designated material is generally recognized as confidential or proprietary; it therefore meets the criteria for confidential treatment and is exempted from public disclosure pursuant to 807 KAR 5:001, Section 13, KRS 61.878(1)(c)(1), KRS 61.878(1)(m), and KRS 278.160(3).

¹ See Case No. 2014-00134, *Big Rivers Electric Corporation Filing of Wholesale Contracts Pursuant to KRS 278.180 and KAR 5:001 §13* (Ky. PSC Sept. 10, 2014); Case No. 2016-00306, *Filing of Agreement for the Purchase and Sale of Firm Capacity and Energy Between Big Rivers Electric Corporation and the Kentucky Municipal Energy Agency* (Ky. PSC Jan. 2, 2019); Case No. 2019-00365, *Joint Application of Big Rivers Electric Corporation and Meade County Rural Electric Cooperative Cooperation for Approval of Contracts for Electric Service with Nucor Corporation* (Ky. PSC Jan. 22, 2020).

² See TFS2018-00318, *Agreement for the Purchase and Sale of Full-Requirements Capacity and Energy Between Big Rivers Electric Corporation and City Utility Commission of the City of Owensboro, Kentucky* (filed June 27, 2018).

IT IS THEREFORE ORDERED that:

1. BREC's motion for confidential treatment is granted.
2. The designated material in BREC's response to Staff's First Request, Items 4, 6, 15, and 18 that was granted confidential treatment by this Order shall not be placed in the public record or made available for public inspection for an indefinite period or until further Order of this Commission.
3. The designated material in BREC's response to Item 10 of the Attorney General's Initial Data Requests that was granted confidential treatment by this Order shall not be placed in the public record or made available for public inspection for two years or until further Order of this Commission.
4. Use of the designated material granted confidential treatment by this Order in any Commission proceeding shall comply with 807 KAR 5:001, Section 13(9).
5. BREC shall inform the Commission if the designated material granted confidential treatment by this Order becomes publicly available or no longer qualifies for confidential treatment.
6. If a nonparty to this proceeding requests to inspect the material granted confidential treatment by this Order and the period during which the material has been granted confidential treatment has not expired, BREC shall have 30 days from receipt of written notice of the request to demonstrate that the material still falls within the exclusions from disclosure requirements established in KRS 61.878. If BREC is unable to make such demonstration, the requested material shall be made available for inspection. Otherwise, the Commission shall deny the request for inspection.

7. The Commission shall not make the requested material available for inspection for 30 days from the date of service of an Order finding that the material no longer qualifies for confidential treatment in order to allow BREC to seek a remedy afforded by law.

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By the Commission



ATTEST:

Linda C. Ludwell

Executive Director

Case No. 2021-00079

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